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BY ECF

December 5, 2012

The Honorable Magistrate James Orenstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re Payment Card Interchange Fee and Merchant Discount Antitrust
Litigation*, MDL No. 1720 (JG) (JO)

Dear Judge Orenstein:

On November 19, 2012, Mary Watson ("Watson"), a plaintiff in a parallel Canadian class action, filed a letter motion seeking to intervene in the above-referenced litigation and asking for a modification of the Fourth Amended Protective Order to allow her access to docketed materials, including sealed or redacted materials. D.E. 1737. On November 26, 2012, three groups responded to the motion – the defendants (D.E. 1744), non-party defendants in the Canadian action (D.E. 1743), and individual plaintiffs (D.E. 1741).

The individual plaintiffs objected to the modification of the protective order if the modification would give Watson access to sensitive information that they produced in their litigation, including but not limited to expert reports. This letter clarifies that Watson seeks only materials filed by the class action plaintiffs or defendants from the class action dockets,¹ and not from the individual plaintiffs' actions. To the extent that the redacted materials in the class action dockets derive from the individual plaintiffs, Watson's attorneys intend to alert attorneys for the individual plaintiffs to this fact and return those materials upon request. Watson's attorneys have met and conferred with

¹ As listed in the first consolidated amended class action complaint (D.E. 317), the class action dockets are: 1:05-cv-05081, 1:05-cv-05082, 1:05-cv-05083, 1:05-cv-05153, 1:05-cv-05207, 1:05-cv-05319, 1:05-cv-05866, 1:05-cv-05868, 1:05-cv-05869, 1:05-cv-05870, 1:05-cv-05871, 1:05-cv-05878, 1:05-cv-05879, 1:05-cv-05880, 1:05-cv-05881, 1:05-cv-05882, 1:05-cv-05883, 1:05-cv-05885, 1:05-cv-03800, 1:05-cv-03924, 1:05-cv-04194, 1:05-cv-04520, 1:05-cv-04521, 1:05-cv-04728, 1:05-cv-04974, 1:05-cv-05069, 1:05-cv-05070, 1:05-cv-05071, 1:05-cv-05072, 1:05-cv-05073, 1:05-cv-05074, 1:05-cv-05075, 1:05-cv-05076, 1:05-cv-05077, 1:05-cv-05080.

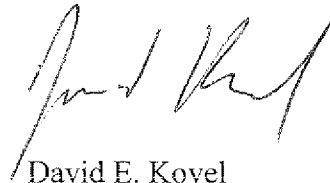
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attorneys for the individual plaintiffs and, based on the above provisos, the individual plaintiffs no longer object to Watson's motion. Watson attaches to this letter an amended/corrected proposed order articulating this clarification.²

Watson also respectfully requests oral argument on this matter to address why the materials she seeks continue to be highly relevant to the Canadian action and to address any other questions related to the motion and the Canadian case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David E. Kovel", written in a cursive style.

David E. Kovel

Counsel for Movant Mary Watson

Enclosures

cc: All Counsel of Record via ECF

² Watson also provides a supplemental declaration of David Jones, which notes that one of the expert reports is available publicly in redacted form.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD INTERCHANGE
FEE AND MERCHANT DISCOUNT
ANTITRUST LITIGATION**

MDL No. 1720 (JG) (JO)

[PROPOSED] ORDER

This Document Applies to:

ALL ACTIONS

This matter having come before the Court on the letter motion of Mary Watson (“Watson”) to intervene for the limited purpose of seeking modification of the previously-issued Fourth Amended Protective Order (“Protective Order”), and the Court having considered the arguments of all interested parties, it is by the Court this _____ day of _____, 20____, **ORDERED** that the motion to intervene is **GRANTED**; and **IT IS FURTHER ORDERED** that the Protective Order shall be **MODIFIED** as follows:

1. Watson shall be treated as a party to the Protective Order and shall have access to all documents filed by class action plaintiffs or defendants in the class action dockets,¹ either publicly or under seal, on the same terms as other parties to the Protective Order; and
2. Paragraph 12 of the Protective Order shall be modified to permit Watson to use unredacted docketed materials obtained pursuant to this Order in the litigation known as *Watson v. Bank of America Corporation et al.*, BC Supreme Court Vancouver Registry File No. VLC-S-S-112003, a class action lawsuit pending in the Supreme Court of British Columbia, Canada, pursuant to the protective order in that action.

¹ The class action dockets as listed in the first consolidated amended class action complaint (Dkt. No. 317) are: 1:05-cv-05081, 1:05-cv-05082, 1:05-cv-05083, 1:05-cv-05153, 1:05-cv-05207, 1:05-cv-05319, 1:05-cv-05866, 1:05-cv-05868, 1:05-cv-05869, 1:05-cv-05870, 1:05-cv-05871, 1:05-cv-05878, 1:05-cv-05879, 1:05-cv-05880, 1:05-cv-05881, 1:05-cv-05882, 1:05-cv-05883, 1:05-cv-05885, 1:05-cv-03800, 1:05-cv-03924, 1:05-cv-04194, 1:05-cv-04520, 1:05-cv-04521, 1:05-cv-04728, 1:05-cv-04974, 1:05-cv-05069, 1:05-cv-05070, 1:05-cv-05071, 1:05-cv-05072, 1:05-cv-05073, 1:05-cv-05074, 1:05-cv-05075, 1:05-cv-05076, 1:05-cv-05077, 1:05-cv-05080.

Dated: _____

JUDGE JAMES ORENSTEIN
UNITED STATES MAGISTRATE JUDGE